

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL ACTION NO. 2:13-00113

MARCUS J. KENNER

SUPERVISED RELEASE REVOCATION AND JUDGMENT ORDER
MEMORANDUM OPINION AND ORDER

On February 4, 2021, the United States of America appeared by Julie M. White, Assistant United States Attorney, and the defendant, Marcus J. Kenner, appeared in person and by his counsel, Tim C. Carrico, Esq., for a hearing on a petition, amended petition, and second amended petition, seeking revocation of supervised release, submitted by United States Probation Officer M. Dylan Shaffer. The defendant commenced a three-year term of supervised release in this action on January 24, 2018, as more fully set forth in the Judgment Order entered by the court on January 31, 2014.

The court heard the admissions and objections of the defendant and the representations and argument of counsel.

For reasons noted on the record of this proceeding, which are ORDERED incorporated herein by reference, the court found by a preponderance of the evidence that the defendant has violated the conditions of supervised release in the following respects: (1) the defendant failed to submit a monthly written report for the months of February and March 2019; (2) the defendant failed to report to the probation officer on February 15, 2019, as instructed; (3) on December 7, 2018, the defendant submitted a urine specimen that tested positive for cocaine, on January 4, 2019, the defendant submitted a urine specimen that tested positive for methamphetamine, on March 12, 2019, the defendant submitted a urine specimen that tested positive for methamphetamine, and on April 9, 2019, the defendant submitted a urine specimen that tested positive for methamphetamine and cocaine; (4) on January 11, January 29, February 8, and March 22, 2019, the defendant failed to submit to a urine screen as instructed by the probation officer; (5) based on violation number 6 of the Second Amendment to Petition with respect to events of April 21, 2020, the court made the findings of facts and conclusions of law set forth on the record of the hearing and finds that the defendant has been convicted in state court of misdemeanor domestic assault, and further finds that the alleged violation of wanton endangerment and convicted felon in

possession of a firearm are not proven by a preponderance of the evidence; all as admitted on the record of the hearing by the defendant as to (1), (2), (3), (4) and (5) as to domestic assault, and all as set forth in the petition, amended petition, and second amended petition on supervised release, and by the court's findings on the record of the hearing.

And the court finding, as more fully set forth on the record of the hearing, that the violations warrant revocation of supervised release and, further, that it would unduly depreciate the seriousness of the violations if supervised release were not revoked, it is ORDERED that the supervised release previously imposed upon the defendant in this action be, and it hereby is, revoked.

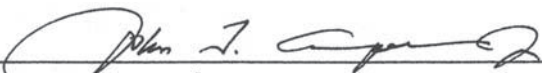
And the court having complied with the requirements of Rule 32.1(b)(2) and (c)(1) of the Federal Rules of Criminal Procedure, and finding, after considering the factors set forth in 18 U.S.C. § 3583 (e), that the defendant should be confined to the extent set forth below, it is accordingly ORDERED that the defendant be, and he hereby is, committed to the custody of the United States Bureau of Prisons for imprisonment for a period of TWELVE (12) MONTHS and ONE (1) day, with a term of

TWENTY-FOUR (24) MONTHS less ONE (1) day of supervised release imposed with the same terms and conditions as heretofore.

The defendant was remanded to the custody of the United States Marshal.

The Clerk is directed to forward copies of this written opinion and order to the defendant, all counsel of record, the United States Probation Department, and the United States Marshal.

DATED: February 17, 2021



John T. Copenhaver, Jr.
Senior United States District Judge